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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,268	07/30/2001	Vishal Malik	10016243-1	8679

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EXAMINER

QURESHI, SHABANA

ART UNIT PAPER NUMBER

2155

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/916,268

Applicant(s)

HEWLETT PACKARD

Examiner

Shabana Qureshi

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Downs et al (US Patent No. 6,249,836).

In regard to claim 1, Downs teaches a method of dynamically allocating network resources including a plurality of computers, comprising:

- receiving a job request for networked resources (column 2, lines 19-20; figure 6, “task request”, items 140 and 146);
- determining whether a sub-broker can handle the job request and, if no sub-broker can handle the job request (column 5, lines 34-37; figure 6, item 150), then reject the request (column 5, lines 34-37; figure 6, item 150) and if a sub-broker can handle the request

(column 5, lines 37-37; figure 6, item 148), then prepare a computer having available resources to handle the job request (column 5, lines 38-49; figure 6, item 156).

As to claim 2, Downs teaches the method of claim 1, comprising qualifying each of the plurality of computers as either available (column 6, lines 25-34; figure 7, item 208), not available (column 6, lines 25-34; figure 7, item 204), or incompetent to handle the job request (column 6, lines 50-61; figure 7, item 220).

As to claim 3, Downs teaches the method of claim 1, comprising maintaining an availability list for each of the plurality of computers (column 5, lines 17-27; figure 2, item 32).

As to claim 4. The method of claim 1, comprising testing an available computer to handle a job request including regression testing, functional testing, compatibility and standards testing and performance testing (column 5, lines 49-62; column 6, lines 9-12, 62-65).

As to claim 5, Downs teaches the method of claim 1, further comprising characterizing the received job request and forwarding the job request to one of a chosen plurality of sub-broker to reconfigure a computer to handle the job request (column 3, lines 10-28; column 4, lines 46-58).

As to claim 7, Downs teaches the method of claim 1, comprising maintaining a list of sub-brokers (column 5, lines 17-27; figure 2, item 32).

As to claim 8, Downs teaches the method of claim 3, comprising maintaining a free peer pool list, an in-progress peer pool list and a waiting peer pool list (column 6, lines 25-61, figure 7, items 204, 208, and 220).

As to claim 9, Downs teaches the method of claim 8, comprising returning a computer to the free peer pool list after the job request has been completed (column 6, lines 25-61).

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As to claim 10, Downs teaches the method of claim 8, comprising removing a computer from the free peer pool list and adding the computer to the in-progress peer pool list during execution of the job request (column 6, lines 25-61).

As to claim 11, Downs teaches the method of claim 1, wherein a computer is prepared by a global peer processing unit (column 4, lines 59-67).

As to claim 12, Downs teaches the method of claim 8, comprising returning a computer to the waiting peer pool list and qualifying the computer to be placed on the free peer pool list (column 6, lines 25-61).

As to claim 13, Downs teaches the method of claim 1, comprising determining whether the job request can be handled by one computer, and if necessary, assigning two or more computers to handle the job request (column 1, lines 15-18).

As to claim 14, Downs teaches the method of claim 1, comprising registering sub-brokers with a master broker (column 2, lines 20-25; column 6, lines 34-40).

As to claim 15, Downs teaches a system for dynamically allocating network resources, including a plurality of computers, comprising:

- a master broker residing on one of the plurality of computers (figures 2 and 3, resource allocator 14);
- at least one sub-broker residing on another one of the computers (resource providers 16);
- at least one peer from the plurality of computers (resource providers 16);
- the master broker capable of receiving a job request and determining whether the at least one sub-broker can handle the job request (column 3, line 56 – column 4, line 3);

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- if the at least one sub-broker can handle the job request then prepare the computer to perform the job request (column 4, lines 46-58; column 6, line 41 – column 7, line 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al (US Patent No. 6,249,836) in view of Dulberg et al (US Patent No. 6,249,836 B1).

As to claim 6, Downs teaches the method of claim 5, but does not explicitly state that the plurality of sub-broker includes a patch queue sub-broker, a pre-release sub-broker, a command sub-broker and a libc sub-broker. However, Dulberg et al teaches resource allocation on a plurality of sub-brokers which includes a patch queue sub-broker [0020], a pre-release sub-broker [0034], a command sub-broker [0020] and a libc sub-broker [0190]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Downs to include testing of releases, patches, commands, and libraries in order to perform load management (column 4, line 59 – column 5, line 6).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (571) 272-3990. The examiner can normally be reached on Monday - Thursday, 9:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shabana Qureshi  
Examiner  
Art Unit 2155

SQ  
09 December, 2004

  
**HOSAIN ALAM**  
SUPERVISORY PATENT EXAMINER